

REMARKS

Claims 1, 3-17, 19-24, 27, 29-33, and 35-42 are pending in this application. Claim 28 has been canceled, without prejudice.

Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. Support for this amendment is found throughout the specification, including claim 28 as filed. Claim 28 has therefore been canceled. Claim 16 also has been amended to specify that the composite active particles are blended with carrier particles.

It is respectfully submitted that no new matter has been added by virtue of these amendments.

Double patenting rejections

Claims 1, 5-8, 11-12, 16-20, 23-24, 27, and 35 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 16-19, and 21- 22 of U.S. Patent No. 7,736,670.

Independent claim 1 of the present application has been amended to read as follows:

A method for making a pharmaceutical composition comprising carrier particles and composite active particles for pulmonary inhalation, the method comprising the step of jet milling active particles in the presence of particles of additive material so that the additive material coats the active particles to form composite active particles, wherein the additive material is selected from the group consisting of: an amino acid, a metal stearate and a phospholipid, the method further comprising blending the carrier particles with the composite active particles.

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. The remainder of the claims depend from claim 1. Therefore, the rejection has been overcome.

Applicants respectfully request withdrawal of this rejection.

Claims 1-2, 5-8, 11-12, 16-24, 27, 35-36, and 39-40 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 20, 33-35, 37, 39, 42-43, and 59-61 of copending Application No. 10/433,185 (now U.S. patent No. 8,048,451 issued November 1, 2011).

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. The remainder of the claims depend from claim 1. Therefore, the rejection has been overcome.

Applicants respectfully request withdrawal of this rejection.

Claims 1-2, 5, 7-8, 11-12, 16-17, 21-22, 27, 29-33, 35, and 41-42 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 10/552,326.

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. The remainder of the claims depend from claim 1. Therefore, the rejection has been overcome.

Applicants respectfully request withdrawal of this rejection.

Claims 1, 7-8, 11-16, 28, and 35-38 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5-9, and 26 of copending Application No. 11/791,385.

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. It should be noted that the carrier particles are added to the composite active particles by blending, a step which does not result in the additive material becoming fused to the surface of the carrier particles.

The remainder of the claims depend from claim 1. Therefore, the rejection has been overcome.

Applicants respectfully request withdrawal of this rejection.

Claims 1-12, 16-24, 29-32, 35-36, and 39-42 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 6, 12, 15-22, 26, 30, and 39-40 of copending Application No. 11/791,670.

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. The remainder of the claims depend from claim 1. Therefore, the rejection has been overcome.

Applicants respectfully request withdrawal of this rejection.

Claims 16-18, 21-24, and 27-33 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 35, 38, 41-43, and 45 of copending Application No. 12/767,530.

Independent Claim 1 has been amended to specify that the pharmaceutical composition comprises carrier particles and that the carrier particles are blended with the composite active particles. The remainder of the claims depend from claim 1. Claims 43 and 44 of this copending application do recite carrier particles. For purposes of expediting prosecution in the present

application, Applicants are concurrently filing an Amendment in copending Application No. 12/767,530 canceling claims 43 and 44. Therefore, the rejection has been overcome.

Applicants therefore respectfully request withdrawal of this rejection.

Applicant is canceling claims 39-41 of U.S. Application No. 13,269,025 and claim 19 of U.S. Application No. 10/433,135 to expedite prosecution in the present application. These claims recite the use of carrier particles. Amendments in each of these applications are being filed for this purpose concurrently with the filing of the present Response After Final Office Action.

CONCLUSION

Reconsideration of the present application is requested. This Response is being submitted in response to the Office Action dated June 14, 2011 in the above-identified application. Concurrently with this Response, Applicant submits a petition for a three-month extension of time for filing a response, along with the requisite fee. If it is determined that any additional fee is due in connection with this filing, the Commissioner is authorized to charge said fees to Deposit Account No. 50-0552.

If the Examiner has any questions or concerns regarding this amendment, the Examiner is respectfully requested to contact either Cliff Davidson or Cary Kappel of our firm at the number set forth below. The undersigned reminds the Examiner that she will be out of the office until after the final due date for this response and will not receive any phone messages.

An early and favorable action on the merits is earnestly requested.

Respectfully Submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: / Leslye Davidson/
Leslye Davidson
Reg. No. 38,854

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018
(212) 736-1940